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New York Practice--City Court Has Jurisdiction Though Aggregate of Separate Claims Exceeds $6,000 (Jordan v. Ravitz, 188 N.Y.S.2d 1007 (App. T. 2d Dep't 1959))

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NEW YORK PRACTICE—CITY COURT HAS JURISDICTION THOUGH AGGREGATE OF SEPARATE CLAIMS EXCEEDS $6,000.—Upon a negligence action brought in the City Court, plaintiff alleged two separate causes of action, one for personal injuries in which he demanded damages of $6,000, the other for property damages, wherein he demanded $1,148.40. The defendant in his answer asserted as an affirmative defense that the amounts demanded were in excess of the $6,000 monetary jurisdictional limitation of the court. The trial court denied the plaintiff's motion to strike out the defense. On appeal, the Appellate Term *held* that the City Court has jurisdiction when a plaintiff alleges several causes of action in his complaint, and the demand in each cause of action alleged does not exceed $6,000, though the aggregate exceeds $6,000. *Jordan v. Ravitz,* — Misc. 2d —, 188 N.Y.S.2d 1007 (App. T. 2d Dep't 1959).

The jurisdiction of the City Court [1] is specified in the New York Constitution [2] and in the New York City Court Act.[3] Its monetary jurisdiction is limited to cases where the amount involved does not exceed $6,000 and interest.[4] Jurisdiction of the court in actions for a sum of money only, is determined by the amount demanded in the complaint.[5] Hence, it has no authority to entertain an action unless

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[1] The territorial jurisdiction of the City Court extends throughout the City of New York, Hollywood Garage Corp. v. Petis & Co., 169 Misc. 906, 9 N.Y.S.2d 374 (Sup. Ct. 1938), but is limited thereto, N.Y. CONST. art. VI, § 15. Appeals from the New York City Court are taken to the Appellate Term of the First and Second Departments, N.Y.C. CT. ACT § 56.

[2] "The City Court of the City of New York . . . shall have . . . original jurisdiction concurrent with the supreme court in actions for the recovery of money only in which the complaint demands judgment for a sum not exceeding six thousand dollars, and interest." N.Y. CONST. art. VI, § 15.

[3] N.Y.C. CT. ACT § 16.

[4] N.Y. CONST. art. VI, § 15, as amended, Jan. 1, 1952. The 1952 amendment enlarged the jurisdiction of the N.Y. City Court from $3,000 to $6,000. Within this monetary limitation, it has jurisdiction of actions for the recovery of money only. Except with respect to actions to foreclose a mechanic's lien, and a lien on personal property, N.Y. CONST. art. VI, § 15, it has no equitable jurisdiction other than as to equitable defenses. It has, however, jurisdiction, unlimited in amount, of marine causes, and of counterclaims. N.Y.C. CT. ACT §§ 16(5), 17, 18.

[5] Latimer v. Barker Bros. Painting Corp., 68 N.Y.S.2d 726 (N.Y. City Ct. 1947). Where the amount claimed in the complaint, served with the summons, exceeds the monetary limitation, the defect cannot be cured by amendment and the City Court has no jurisdiction. McConnell v. Williams S.S. Co., 239 App. Div. 393, 267 N.Y. Supp. 554 (1st Dep't 1933), *aff'd mem.*, 265 N.Y. 594, 193 N.E. 336 (1934). Where the summons recited the sum of $6,000, but the complaint alleged an amount in excess of $6,000, and the summons and complaint were served simultaneously, the court lacked jurisdiction from the inception of the action. Bergman v. Prestige Records, Inc., 134 N.Y.L.J. No. 82, p. 11, col. 2 (N.Y. City Ct. Oct. 27, 1955). Service of summons alone (by which the court acquired jurisdiction) demanding no amount, followed by notice of appearance and later by service of complaint demanding judgment for $25,000, was held to be reducible to the monetary limitation in order to confer jurisdiction upon the court. Ussop v. American

it appears on the face of the complaint that the judgment demanded is within the jurisdictional monetary limitation.[6] Where the amount demanded in the complaint, served with the summons, exceeds the monetary limitation, the defect cannot be cured by amendment, for in such a case, the court, never having acquired jurisdiction, is without the power to allow the amendment.[7] Where several parties join as plaintiffs,[8] because of common questions of law or fact involved, and each plaintiff separately states his cause of action, and demands a separate judgment in an amount not exceeding $6,000, the City Court has jurisdiction notwithstanding the fact that the aggregate demands of the plaintiffs are in excess of $6,000. For each plaintiff's complaint, in such a case, is that portion of the complaint which states his cause of action and his demand for judgment.[9] However, where several plaintiffs demand a joint judgment, exceeding the monetary limitation, the court has no jurisdiction.[10] In the event that a single plaintiff joins several defendants in one action, where the amount demanded against each is within the monetary limitation, the City Court again has jurisdiction.[11]

Many cases have adhered to the reasoning that where there is but a single plaintiff and defendant in an action, the total amount demanded in the complaint is the test of jurisdiction,[12] notwithstanding the fact that the plaintiff alleges several causes of action. In *Marcus v. Bader*,[13] the plaintiff alleged two causes of action for slander. Each demand was within the court's monetary limitation. The court construed the word "judgment" in the New York State Constitution[14] to mean the total amount sought by one plaintiff and refused to entertain the suit. The court stated:

West African Line, 151 Misc. 12, 269 N.Y. Supp. 654 (N.Y. City Ct. 1934); *accord*, Murlock v. Hansen, 130 N.Y.L.J. No. 121, p. 1544, col. 8 (N.Y. City Ct. Dec. 23, 1953). If upon the trial the plaintiff's proof shows that he is entitled to more than the jurisdictional amount, he may waive or remit that part of his claim and thus keep the amount within the statutory limitation. Latimer v. Barker Bros. Painting Corp., *supra*.

[6] Heffron v. Jennings, 66 App. Div. 443, 73 N.Y. Supp. 410 (4th Dep't 1901).

[7] McConnell v. Williams S.S. Co., *supra* note 5.

[8] See N.Y. CIV. PRAC. ACT § 212 for the provisions concerning the joinder of parties.

[9] Merten v. Queen Rental Corp., 241 App. Div. 831, 271 N.Y. Supp. 271 (2d Dep't 1934) (per curiam); Spetler v. Jogel Realty Co., 224 App. Div. 612, 231 N.Y. Supp. 517 (1st Dep't 1928). (These cases were decided before the City Court's monetary jurisdiction was raised to $6,000.)

[10] Weis v. Richartz, 130 Misc. 583, 224 N.Y. Supp. 416 (N.Y. City Ct. 1927).

[11] Farkas v. Metz, 160 Misc. 9, 289 N.Y. Supp. 214 (N.Y. City Ct. 1936).

[12] See, *e.g.*, Malkin v. La Boutique Sportswear, Inc., 140 N.Y.L.J. No. 36, p. 2, col. 7 (N.Y. City Ct. Aug. 20, 1958); Rodriguez v. Coras Taxi, Inc., 133 N.Y.L.J. No. 26, p. 10, col. 7 (N.Y. City Ct. Feb. 7, 1955); Marcus v. Bader, 156 Misc. 730, 282 N.Y. Supp. 503 (N.Y. City Ct. 1935).

[13] Note 12 *supra*.

[14] N.Y. CONST. art. VI, § 15.

> The complaint always consists of, *first,* a statement setting forth one or more causes of action; and, *second,* a prayer for judgment. The purpose of joining two or more causes of action in a single complaint is that all matters of difference between plaintiff and defendant may be determined *in one action.* The same reason exists for joining two or more plaintiffs in one complaint. In the latter case, however, each plaintiff who so joins in a single complaint in an action brought in this court is entitled to demand therein a separate judgment on his cause of action for an amount within the limits of this court's jurisdiction. His statement as to his cause of action is, as to him, his complaint, separate and distinct from the others who joined in the same complaint. At bar, there is but one plaintiff, one complaint, one action, and there can, therefore, be but one judgment. It is true that where two or more plaintiffs join in the one complaint, pursuant to section 209 [now section 212] of the Civil Practice Act, there is but one action, but the distinguishing feature between that situation and the one at bar is, that in the former instance there are several plaintiffs in the one action each entitled to have his cause of action treated as a separate complaint.[15]

In the recent case of *Malkin v. La Boutique Sportswear, Inc.*,[16] the court recognized the financial hardships placed upon the plaintiff but construed a complaint, wherein several causes of action were stated, to be in conflict with the constitutional limitation upon the monetary jurisdiction of the City Court. In *Rodriguez v. Coras Taxi, Inc.*,[17] where the court denied plaintiff's motion to amend his complaint so as to state two causes of action, the court took cognizance of the procedural anomaly that allows the monetary limitation to be disregarded in "joinder of parties" cases, but relying on the *Bader* case as authority, felt compelled to deny jurisdiction.

In the recent case of *Robles v. Rushfield*,[18] however, the court assumed jurisdiction in a situation similar to that in the instant case, thereby marking a radical departure from previous authority, basing their reasoning on the favorable policy toward joinder of causes of action,[19] and the avoidance of a multiplicity of lawsuits. Not since 1928, when held by implication, has a court granted jurisdiction under these circumstances.[20] The importance of the instant case is that the *Robles* holding is solidified by appellate review.

The lower court in the *Jordan* case relied on the authority of *Dilworth v. Yellow Taxi Corp.*,[21] in which the court refused to grant jurisdiction where several plaintiffs joined their causes of action and the aggregate demand exceeded the court's monetary limitation. The Appellate Term found that this is no longer the rule in the Second

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[15] Marcus v. Bader, 156 Misc. 730, 731-32, 282 N.Y. Supp. 503, 505 (N.Y. City Ct. 1935).

[16] Note 12 *supra.*

[17] 133 N.Y.L.J. No. 36, p. 2, col. 7 (N.Y. City Ct. Aug. 20, 1958).

[18] 7 Misc. 2d 734, 166 N.Y.S.2d 612 (N.Y. City Ct. 1957).

[19] See N.Y. CIV. PRAC. ACT § 258.

[20] See text accompanying note 23 *infra.*

[21] 220 App. Div. 772, 221 N.Y. Supp. 813 (2d Dep't 1927) (mem. opinion).

Department and has not been since 1934.[22] The court ruled that in the event a plaintiff alleges several causes of action and each is within the monetary limitation, though the aggregate exceeds $6,000, the City Court has jurisdiction. This appears to be the rule in the First Department.[23]

The Court used reasoning similar to that of the *Robles* decision when it declared that:

> Inasmuch as the plaintiff in the instant action might have brought separate actions for personal injuries and property damage, demanding damages in each up to the limit of the court's jurisdiction, and these cases might properly have been consolidated, there appears to be no reason . . . to hold that the jurisdiction of the court was exceeded when the plaintiff joined two separate causes of action, separately stated, in one complaint and the demand in each case was within the limit of the court's jurisdiction.[24]

The logic which recognizes the separability of the first pleading in an action into as many distinct complaints as there are causes of action, pleaded by multiple plaintiffs against one defendant[25] or by one plaintiff against multiple defendants,[26] should apply with equal force to the situation in hand where one plaintiff pleads distinctly separate causes of action with separate demands, none in excess of $6,000, against one defendant. The decision in the instant case is consistent with the joinder provisions of the Civil Practice Act,[27] in that it avoids a multiplicity of suits[28] and promotes the speedy, convenient disposition in one action of all the claims of all parties involving common questions of law and fact.

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[22] See Merten v. Queen Rental Corp., 241 App. Div. 831, 271 N.Y. Supp. 271 (2d Dep't 1934). See generally, 72 A.L.R. 193-224 (1931), for a discussion of the law concerning the criteria of jurisdictional amount where several claimants are involved.

[23] See Spetler v. Jogel Realty Co., 224 App. Div. 612, 231 N.Y. Supp. 517 (1st Dep't 1928). In the *Spetler* case, a husband, wife and son alleged four causes of action arising out of a negligence case. Each demand was for the maximum of the monetary limitation, which was then $3,000. Two of the causes of action were alleged by the husband. The Appellate Division of the First Department held that though the aggregate claims of all the plaintiffs exceeded the monetary jurisdiction, the constitutional inhibition was not thereby violated for the reason that the claim and amount demanded by each was within the jurisdictional limit. Although the issue in the case revolved around the effect of the joinder of parties on the monetary limitation of the City Court (since the father did allege two causes of action), the court could have on its own motion raised the issue; by not doing so, it impliedly held that the monetary jurisdictional limitation was not infringed.

[24] Jordan v. Ravitz, — Misc. 2d —, 188 N.Y.S.2d 1007, 1009 (App. T. 2d Dep't 1959).

[25] See, *e.g.*, Vigil v. Cayuga Const. Corp., 185 Misc. 675, 54 N.Y.S.2d 94 (N.Y. City Ct. 1945).

[26] See, *e.g.*, Farkas v. Metz, 160 Misc. 9, 289 N.Y. Supp. 214 (N.Y. City Ct. 1936).

[27] N.Y. Civ. Prac. Act §§ 212, 258.

[28] The decision is a step in the right direction toward alleviating the congested court calendars in New York City today.